

268 NLRB No. 206

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Scottsdale, PA

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SCOTTDALE WOOD PRODUCTS, INC.;  
WOODCORE, INC.

and

Cases ~~6-CA-16114-1~~ and  
~~6-CA-16114-2~~

UNITED STEELWORKERS OF AMERICA,  
AFL--CIO--CLC

DECISION AND ORDER

Upon a charge filed by the Union 26 January 1983, the General Counsel of the National Labor Relations Board issued complaints 28 February 1983 against the Companies, the Respondents, alleging that they have violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charges and complaints, the Companies have failed to file answers.

On 13 April 1983 the General Counsel filed a Motion for Summary Judgment. On 19 April 1983 the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. The Companies filed no responses. The allegations in the motion are therefore undisputed.

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The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

#### Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 10 days from service of the complaint, unless good cause is shown. The complaints state that unless an answer is filed within 10 days of service, "all the allegations in the complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that counsel for the General Counsel, by letter dated 24 March 1983, notified the Companies that unless answers were received immediately, a Motion for Summary Judgment would be filed.<sup>1</sup>

In the absence of good cause being shown for the failure to file timely answers, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

#### Findings of Fact

##### 1. Jurisdiction

The Companies, Pennsylvania corporations, are and have been engaged in the nonretail sale and custom drying of wood by use of a kiln and the nonretail sale and processing of hardwood materials at their offices and sole facilities

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<sup>1</sup> The Regional attorney, by letter dated 15 March 1983, had advised the Respondents that their failure to file answers might result in the Region's filing of a Motion for Summary Judgment. Counsel for the General Counsel telephoned the Respondents' representative on 23 March 1983, inquired if the Respondents needed additional time to file answers, informed him of the necessity of filing answers in order to preserve any defenses the Respondents might wish to assert, and advised him that, unless answers to the complaints were received, the Motion for Summary Judgment might be filed. The Respondents' representative informed counsel for the General Counsel that the Respondents were in serious financial crises and that they did not intend to file answers.

in Upper Tyrone Township, Fayette County, Pennsylvania, where they annually sell and ship from their Upper Tyrone Township, Pennsylvania facilities products, goods, and materials valued in excess of \$50,000 directly to points outside the Commonwealth of Pennsylvania. We find that the Companies are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. Alleged Unfair Labor Practices

At all times since 22 August 1963 the Union has been the certified bargaining representative in an appropriate unit,<sup>2</sup> and has been recognized as such by the Respondents. Such recognition has been embodied in successive collective-bargaining agreements, the most recent of which are effective from 9 August 1982 through 9 August 1983. The latest collective-bargaining agreements include grievance and arbitration procedures.

With respect to the unfair labor practices, the complaints allege in substance that the Union has been the certified exclusive collective-bargaining representative of the Respondents' employees in appropriate units and has been recognized as such by the Respondents; that commencing on or about 24 November 1982 the Respondents repudiated the grievance and arbitration procedures embodied in the collective-bargaining agreements by failing to abide by the procedures for the settlement of disputes set forth in the collective-bargaining agreements; and that, by such acts, the Respondents

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<sup>2</sup> The appropriate unit is:

All production and maintenance employees, firemen, lumber inspectors, shipping clerks, janitors and/or janitresses, at their Upper Tyrone, Pennsylvania, facilities; excluding office clerical employees, superintendents, foremen or other supervisory employees having authority to hire, promote, discharge, discipline or effect changes in the status of employees or effectively recommend such action.

have failed and refused, and are failing and refusing, to bargain collectively with the representative of their employees and the Respondents thereby have been engaging in unfair labor practices within the meaning of Section 8(a)(1) and (5) of the Act.

#### Conclusions of Law

By repudiating the grievance and arbitration procedures embodied in the collective-bargaining agreements by failing to abide by the procedures for the settlement of disputes set forth in the collective-bargaining agreements, the Companies have engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

#### Remedy

Having found that the Respondents have engaged in certain unfair labor practices, we shall order them to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

#### ORDER

The National Labor Relations Board orders that the Respondents, Scottdale Wood Products, Inc., and Woodcore, Inc., Upper Tyrone Township, Fayette County, Pennsylvania, their officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Repudiating the grievance and arbitration procedures embodied in the collective-bargaining agreements by failing to abide by the procedures for the settlement of disputes set forth in the collective-bargaining agreements in derogation of the Union's status as the exclusive bargaining representative of their employees in the following appropriate unit:

All production and maintenance employees, firemen, lumber inspectors, shipping clerks, janitors and/or janitresses, at their Upper Tyrone, Pennsylvania, facilities; excluding office clerical employees, superintendents, foremen or other supervisory employees having the authority to hire, promote, discharge, discipline or effect changes in the status of employees or effectively recommend such action.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Restore the employee terms and conditions of employment as they existed prior to the unilateral changes specified in paragraph 1(a) of this Order.

(d) Post at their facilities in Upper Tyrone Township, Fayette County, Pennsylvania, copies of the attached notice marked "'Appendix.'"<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 6, after being signed by the Respondents' authorized representatives, shall be posted by the Respondents immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondents to ensure that the notices are not altered, defaced, or covered by any other material.

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<sup>3</sup> If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondents have taken to comply.

Dated, Washington, D.C.

29 February 1984

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Donald L. Dotson, Chairman

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Don A. Zimmerman, Member

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Patricia Diaz Dennis, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

## APPENDIX

## NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain collectively with United Steelworkers of America, AFL--CIO--CLC, as the exclusive representative of the employees in the bargaining unit by repudiating the grievance and arbitration procedures embodied in the collective-bargaining agreements by failing to abide by the procedures for the settlement of disputes set forth in the collective-bargaining agreements in derogation of the Union's status as exclusive representative of the employees in the bargaining unit described below.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL restore the employee terms and conditions of employment as they existed prior to the unilateral changes specified above.

The bargaining unit is:

All production and maintenance employees, firemen, lumber inspectors, shipping clerks, janitors and/or janitresses, at our Upper Tyrone, Pennsylvania, facilities; excluding office clerical employees, superintendents, foremen or other supervisory employees having authority to hire, promote, discharge, discipline or effect changes in the status of employees or effectively recommend such action.

SCOTTIDALE WOOD PRODUCTS, INC.;  
WOODCORE, INC.

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(Employers)

Dated ----- By -----  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 1501 William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, Telephone 412--644--2969.